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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/809,503	03/26/2004	Takaaki Suzuki	2004_0476	8598

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EXAMINER	
TAYLOR, JOSHUA D	

ART UNIT	PAPER NUMBER
4157	

MAIL DATE	DELIVERY MODE
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/809,503	SUZUKI, TAKAAKI	
	Examiner	Art Unit	
	JOSHUA TAYLOR	4157	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 March 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-5* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-5* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☒ The drawing(s) filed on *03/26/2004* is/are: a)☒ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☒ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *3/26/2004*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1-5 rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claim1-2, 4, 6, and 8 of U.S. Patent No. 6,745,393. Although the conflicting claims are not identical, they are not patentably distinct from each other, for the following reasons.

In claim 1 of this application, what is claimed is "a signal processing circuit for use in a broadcast receiving apparatus for receiving a broadcast signal, the broadcast receiving apparatus including a tuning request storage section, the signal processing circuit comprising:

a tuning request reception section for receiving an issued tuning request;

a tuning process section for performing a tuning process for the broadcast signal

corresponding to the issued tuning request, wherein, if at least one tuning request is issued during the tuning process, the tuning process section performs a next tuning process corresponding to one of the at least one tuning request stored in the tuning request storage section during the tuning process;

and a tuning request erasure section for erasing, at a predetermined point in time, the at least one tuning request stored in the tuning request storage section during the tuning process, wherein the tuning request received by the tuning request reception section is stored to the tuning request storage section."

In claim 1 of Patent 6,745,393, what is claimed is "a broadcast receiving apparatus for receiving a broadcast signal, comprising:

a tuning request reception section for receiving an issued tuning request;

a tuning request storage section for storing the tuning request received by the tuning request reception section;

a tuning process section for performing a tuning process for the broadcast signal corresponding to the tuning request, wherein, if at least one tuning request is issued during the tuning process, the tuning process section performs a next tuning process corresponding to one of the at least one tuning request stored in the tuning request storage section during the tuning process;

and a tuning request erasure section for erasing, at a predetermined point in time, the at least one tuning request stored in the tuning request storage section during the tuning process."

The only significant difference between these two claims is that rather than "a broadcast receiving apparatus," the applicant claims "a signal processing circuit for use in a broadcast receiving apparatus." Because it would have been obvious to one skilled in the art at the time of

the invention to assume that a signal processing circuit would have been necessary in this broadcast receiving apparatus, these claims are not patentably distinct from one another.

In claim 2 of this application, what is claimed is "the signal processing circuit according to claim 1, wherein the tuning request erasure section erases the at least one tuning request stored in the tuning request storage section at the beginning of the tuning process."

The rejection should be obviousness type double patenting.

In claim 2 of Patent 6,745,393, what is claimed is "the broadcast receiving apparatus according to claim 1, wherein the tuning request erasure section erases the at least one tuning request stored in the tuning request storage section at the beginning of the tuning process."

Again, the only difference between these two claims is that rather than "a broadcast receiving apparatus," the applicant claims "a signal processing circuit for use in a broadcast receiving apparatus." For the same reasons as cited for claim 1, these claims are not patentably distinct.

In claim 3 of this application, what is claimed is "the signal processing circuit according to claim 1, wherein if the tuning process fails, the tuning process section performs a further tuning process corresponding to one of the tuning requests stored in the tuning request storage section during a previous tuning process, and the tuning request erasure section erases the at least one tuning request stored in the tuning request storage section during the previous tuning process after the further tuning is completed."

In claim 4 of Patent 6,745,393, what is claimed is "the broadcast receiving apparatus according to claim 1, wherein if the tuning process fails, the tuning process section performs a further tuning process corresponding to one of the tuning requests stored in the tuning request storage section during a previous tuning process, and the tuning request erasure section erases

the at least one tuning request stored in the tuning request storage section during the previous tuning process after the further tuning is completed."

Again, the only difference between these two claims is that rather than "a broadcast receiving apparatus," the applicant claims "a signal processing circuit for use in a broadcast receiving apparatus." For the same reasons as cited for claim 1, these claims are not patentably distinct.

In claim 4 of this application, what is claimed is "The signal processing circuit according to claim 1, wherein, if at least one tuning request is issued during the tuning process, the tuning process section performs a next tuning process corresponding to a most recent tuning request among the at least one tuning request stored in the tuning request storage section."

In claim 6 of Patent 6,745,393, what is claimed is "the broadcast receiving apparatus according to claim 1, wherein, if at least one tuning request is issued during the tuning process, the tuning process section performs a next tuning process corresponding to a most recent tuning request among the at least one tuning request stored in the tuning request storage section."

Again, the only difference between these two claims is that rather than "a broadcast receiving apparatus," the applicant claims "a signal processing circuit for use in a broadcast receiving apparatus." For the same reasons as cited for claim 1, these claims are not patentably distinct.

In claim 5 of this application, what is claimed is "The signal processing circuit according to claim 1, wherein the tuning requests are issued by a software application."

In claim 8 of Patent 6,745,393, what is claimed is "The broadcast receiving apparatus according to claim 1, wherein the tuning requests are issued by a software application."

Again, the only difference between these two claims is that rather than "a broadcast receiving apparatus," the applicant claims "a signal processing circuit for use in a broadcast receiving apparatus." For the same reasons as cited for claim 1, these claims are not patentably distinct.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to JOSHUA TAYLOR whose telephone number is 571-270-3755. The examiner can normally be reached on 8am-5pm, M-F, EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Vu Le can be reached on (571) 272-7332. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Josh Taylor/
Examiner, Art Unit 4157
/ABUL K. AZAD/
Primary Examiner, Art Unit 2626